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EXAMINER
LEWIS, JONATHAN V

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *62-110* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *62-110* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 July 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's amendment filed July 30, 2008.

Claims 62-110 are still pending in the present application. **This action is made FINAL.**

Response to Arguments

Applicant's arguments with respect to claims 62-110 have been considered but

are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 62-63, 80-81, 95-96 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US

PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No.

2006/0253330).

Regarding claim 62 (Currently Amended), Curreri teaches a method for

controlling channel changes in television or digital radio having a tuner or receiver

(Abstract; Fig. 1), the method for controlling channel changes comprising: monitoring

channel change commands received from a user during a zapping session during which

channels are discarded (page 5, 0047); identifying a discarded channel (page 3, 0030);

determining whether or not a program transmitted on an identified discarded channel has changed (page 5, 0047).

Curreri teaches all the claim limitations as stated above, except preventing the tuner or receiver from tuning to the discarded channel during a remainder of the zapping session unless the determining of whether or not the program transmitted on the discarded channel has changed determines that the program transmitted on the discarded channel has changed.

However, Porter teaches preventing the tuner or receiver from tuning to the discarded channel during a remainder of the zapping session unless the determining of whether or not the program transmitted on the discarded channel has changed determines that the program transmitted on the discarded channel has changed (page 2, 0031 discloses the prevention of tuning to a channel of a discarded channel during a zapping session; page 2, 0036 discloses the monitoring of channels to determine when programming is allowable again).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to prevent the tuner from tuning to a discarded channel during a zapping session, in order to ensure that the viewer only sees content which is desirable for he/she to tune to, which makes zapping easier.

Curreri in view of Porter teaches all the claim limitations as stated above, except the identifying of the discarded channel includes (i) monitoring a time that the user has viewed a channel during the zapping session, and (ii) based on the time that the user

has viewed the channel, determining whether or not the channel is the discarded

channel.

However, Maggio et al. teaches the identifying of the discarded channel includes

(i) monitoring a time that the user has viewed a channel during the zapping session, and

(ii) based on the time that the user has viewed the channel, determining whether or not

the channel is the discarded channel (pages 42-43, paragraphs 0497, 0501).

Therefore, it would have been obvious to one of ordinary skill in the art, at the

time the invention was made to use, to monitor channels during a zapping session and

based on the amount of time viewed keeping or discarding a channel, in order to ensure

that the viewer only sees content which is desirable for he/she to tune to, which makes

zapping easier.

Regarding claim 63, Curreri in view of Porter in further view of Maggio et al.

teaches all the claim limitations as stated above, except setting a viewing time threshold

used by the determining of whether or not the channel is to be discarded.

However, Maggio et al. teaches setting a viewing time threshold used by the

determining of whether or not the channel is to be discarded (pages 80-81, 0988; Fig.

80B).

System and computer program claims 80-81, 95-96 are rejected for the same

reasons as stated above, in the corresponding method claims.

Claims 64-67, 69-70, 82-85, 87-88, 97-100, 102-103 are rejected under 35

U.S.C. 103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183)

in view of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al.

(US PG Pub. No. 2006/0253330) in further view of Eldering et al. (US PG Pub. No. 2007/0240181).

Regarding claim 64, Curreri in view of Porter in further view of Maggio et al. in further view of Eldering et al. teaches all the claim limitations as stated above, except if the time that the user has viewed the channel is at most the viewing time threshold, then the channel is discarded.

However, Eldering et al. teaches if the time that the user has viewed the channel is at most the viewing time threshold, then the channel is discarded (page 6, 0092).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to monitor the viewing time of a channel and discard or keep channels based on this information, in order to give content providers the most accurate information when determining the most relevant, targeted programming and advertising to provide for the viewer's interests.

Regarding claim 65, Curreri in view of Porter in further view of Maggio et al. in further view of Eldering et al. teaches all the claim limitations as stated above, except if the time that the user has viewed the channel is at most the viewing time threshold, then the channel is retained.

However, Eldering et al. teaches if the time that the user has viewed the channel is at most the viewing time threshold, then the channel is retained (page 6, 0094).

Regarding claim 66, Curreri in view of Porter in further view of Maggio et al. in further view of Eldering et al. teaches all the claim limitations as stated above, except if

the time that the user has viewed the channel is at least the viewing time threshold, then

the channel is discarded.

However, Eldering et al. teaches if the time that the user has viewed the channel

is at least the viewing time threshold, then the channel is discarded (page 6, 0092).

Regarding claim 67, Curreri in view of Porter in further view of Maggio et al. in

further view of Eldering et al. teaches all the claim limitations as stated above, except if

the time that the user has viewed the channel is at least the viewing time threshold, then

the channel is retained.

However, Eldering et al. teaches if the time that the user has viewed the channel

is at least the viewing time threshold, then the channel is retained (page 6, 0094).

Regarding claim 69, Lin in view of Matthews in further view of Eldering et al.

teaches all the claim limitations as stated above, except determining whether or not a

program on a particular channel has changed.

However, Eldering et al. teaches determining whether or not a program on a

particular channel has changed (page 5, 0082).

Regarding claim 70, Lin in view of Matthews in further view of Eldering et al.

teaches all the claim limitations as stated above, except determining of whether or not

the program on the particular channel has changed includes comparing program

identifiers of a previously viewed program identifiers of a previously viewed program

and a currently viewed program.

However, Eldering et al. teaches determining of whether or not the program on

the particular channel has changed includes comparing program identifiers of a

previously viewed <u>program</u> identifiers <u>of a</u> previously viewed <u>program</u> and <u>a</u> currently

viewed <u>program</u> (page 5, 0082).

System and computer program claims 82-85, 87-88, 97-100, 102-103 are

rejected for the same reasons as stated above, in the corresponding method claims.

Claims 68, 86, 101 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US

PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No.

2006/0253330) in further view of Eldering et al. (US PG Pub. No. 2007/0240181) in

further view of Lin (US Pat. No. 6,934,917).

Regarding claim 68, Curreri in view of Porter in further view of Maggio et al. in

further view of Eldering et al. teaches all the claim limitations as stated above, except

receiving a user input <u>that indicates</u> the <u>viewing</u> time <u>threshold</u>.

However, Lin teaches receiving a user input <u>that indicates</u> the <u>viewing</u> time

<u>threshold</u> (Fig 5, 132 shows the user setting the start time by viewing the current

channel and the end time of the previous channel).

Therefore, it would have been obvious to one of ordinary skill in the art, at the

time the invention was made to use, to receive a user input to indicate the time

threshold, in order to provide a user with their favorite channels based on the amount of

time that was set to monitor behavior.

System and computer program claims 86, 101 are rejected for the same reasons

as stated above, in the corresponding method claims.

Claims 71, 89, and 104 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US

PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No.

2006/0253330) in further view of Eldering et al. (US PG Pub. No. 2007/0240181) in

further view of Maissel et al. (US Pat. No. 6,637,029).

Regarding claim 71, Curreri in view of Porter in further view of Maggio et al. in

further view of Eldering et al. teaches all the claim limitations as stated above, except

the determining of whether or not the program on the particular channel has changed

includes: monitoring real time; identifying program scheduling information for the

particular channel; and using the identified scheduling information and the monitored

real time to determine whether or not there is a change in a currently broadcast

program.

However, Maissel et al. teaches the determining of whether or not the program

on the particular channel has changed includes: monitoring real time (col. 19, lines 16-

30 disclose the real time monitoring of audience participation of a program on a

particular channel); identifying program scheduling information for the particular

channel; and using the identified scheduling information and the monitored real time to

determine whether or not there is a change in a currently broadcast program (col. 19,

lines 16-30 identifies the change program based on the real time information from the

audience and it's scheduling information is included in the information to determine the

change in the Abstract).

Therefore, it would have been obvious to one of ordinary skill in the art, at the

time the invention was made to use, to monitor program changes in real time and

identify scheduling information, in order to provide an improved electronic program

guide to the end user, where the most up to date information is readily available.

System and computer program claims 89 and 104 are rejected for the same

reasons as stated above, in the corresponding method claim.

Claims 72-73, 90-91, 93-94, 105-106, 108-109 are rejected under 35 U.S.C.

103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view

of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG

Pub. No. 2006/0253330) in further view of Lin (US Pat. No. 6,934,917).

Regarding claim 72, Curreri in view of Porter in further view of Maggio et al.

teaches all the claim limitations as stated above, except receiving a control signal, from

the user, that indicates that a channel zapping session is starting, the control signal

prompting a start of monitoring channels zapped to and channels discarded.

However, Lin teaches receiving a control signal, from the user, that indicates that

a channel zapping session is starting (Fig. 4, 100 shows the scan button depressed by

the user to start the zapping session), the control signal prompting a start of monitoring

channels zapped to and channels discarded (Fig. 4, 110 shows the automatic zapping,

step 190 shows the channels chosen to be discarded).

Therefore, it would have been obvious to one of ordinary skill in the art, at the

time the invention was made to use, to indicate the start of a zapping session and

prompt the monitoring of zapped channels to be discarded, in order to provide a way to eliminate undesirable content from a user's available choices.

Regarding claim 73, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except receiving, from the user, a signal representing a command to stop the channel zapping session.

However, Lin teaches receiving, from the user, a signal representing a command to stop the channel zapping session (Fig. 4, 125 shows the selection of a channel, which stops the zapping as shown in Fig. 5).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to stop a zapping session, in order to provide a way to eliminate undesirable content from a user's available choices.

Regarding claim 93, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except a display for displaying programs.

However, Lin teaches a display for displaying programs (Fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to display programs, in order to provide entertaining content to the end user.

Regarding claim 94, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except being adapted to receive channel change commands from a remote control.

However, Lin teaches being adapted to receive channel change commands from a remote control (Fig. 1/Fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to receive channel change commands from a remote control, in order to allow a user to efficiently browse through a service providers available content.

Regarding claim 108, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except a set top box that includes a computer program as defined in claim 95.

However, Lin teaches a set top box that includes a computer program as defined in claim 95 (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to utilize a set top box to execute a program, in order to allow a service provider to provide more customizable content to the end user.

Regarding claim 109, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except a television system that includes a computer program as defined in claim 95.

However, Lin teaches a television system that includes a computer program as defined in claim 95 (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to include a television system, in order to give the end user a way to view their desired content.

System and computer program claims 90-91, 105-106 are rejected for the same reasons as stated above, in the corresponding method claims.

Claims 74, 92, and 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No. 2006/0253330) in further view of Ellis et al. (US Pat. No. 5,986,650).

Regarding claim 74, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except terminating the channel zapping session if no channel change commands are received over a pre-determined time.

However, Ellis et al. teaches terminating the channel zapping session if no channel change commands are received over a pre-determined time (col. 10, line 59— col. 11, line 7).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to stop a zapping session over a predetermined time if no channel is changed, in order to allow a user to choose from a plurality of channels viewed on an EPG, while the system periodically stops the scanning process for the user's convenience, ensuring that once an automatic zapping process has begun it will not wastefully continue if the user is no longer paying attention.

System and computer program claims 92 and 107 are rejected for the same reasons as stated above, in the corresponding method claim.

Claims 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No. 2006/0253330) in further view of Matz et al. (US Pat. No. 7,360,160).

Regarding claim 75, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except identifying an advertisement, temporarily excluding a channel showing the advertisement from a pool of available channels, and reintroducing the excluded channel when the advertisement is finished.

However, Matz et al. teaches identifying an advertisement (Fig. 5, 510 shows the identification of the advertisement with a tag), temporarily excluding a channel showing the advertisement from a pool of available channels, and reintroducing the excluded channel when the advertisement is finished (Fig. 12 shows the blocking and presentation of the desired content after the content, the advertisement is blocked).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to identify and remove an advertisement, in order to present the user with only desired content based on his/her user profile.

Regarding claim 76, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except identifying an advertisement and showing material, including a video clip or text, associated with a program to be available for viewing when the advertisement is finished.

However, Matz et al. teaches identifying an advertisement and showing material, including a video clip or text, associated with a program to be available for viewing when the advertisement is finished (Fig. 18).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to identify and remove an advertisement, in order to present the user with only desired content based on his/her user profile.

Regarding claim 77, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except recording a portion of a program available for viewing immediately preceding the advertisement and displaying the portion of the program to the user during the advertisement.

However, Matz et al. teaches recording a portion of a program available for viewing immediately preceding the advertisement and displaying the portion of the program to the user during the advertisement (Fig. 14).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to identify and remove an advertisement, in order to present the user with only desired content based on his/her user profile.

Regarding claim 78, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except carrying out the recording of the portion of the program for all available channels.

However, Matz et al. teaches carrying out the recording of the portion of the program for all available channels (Fig. 2).

Claim 79 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No. 2006/0253330) in further view of Matthews (US Pat. No. 6,037,877).

Regarding claim 79, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except monitoring <u>program</u> changes; identifying <u>a</u> most recently provided or broadcast <u>program;</u> and presenting the most recently provided or broadcast <u>program identified by the identifying of the most recently provided or broadcast program</u> to the user in response to a channel change command.

However, Matthews teaches monitoring <u>program</u> changes (Abstract); identifying <u>a</u> most recently provided or broadcast <u>program</u> (Fig. 1)<u>;</u> and presenting the most recently provided or broadcast <u>program identified by the identifying of the most recently provided or broadcast program</u> to the user in response to a channel change command (Fig. 1).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to monitor program changes and identifying recent programming to the user because of a channel change, in order to allow a user to define a subset of channels, as channels of interest.

Claim 110 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curreri (US PG Pub. No. 2001/0054183) in view of Porter (US PG Pub. No. 2002/0023262) in further view of Maggio et al. (US PG Pub. No. 2006/0253330) in further view of Hendricks et al. (US Pat. No. 5,798,785).

Regarding claim 110, Curreri in view of Porter in further view of Maggio et al. teaches all the claim limitations as stated above, except a digital radio that includes a computer program as defined in claim 95.

However, Hendricks et al. teaches digital radio that includes a computer program as defined in claim 95 (col. 10, lines 47-55 disclose the digital radio).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to selectively channel zap in a digital radio, in order to allow the system to handle a large number of programming channels not limited to just television, thereby providing this service to an even greater audience.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. De Lange et al. US PG Pub. No. 2002/0062484

b. Oz et al. US Pat. No. 7,237,251

c. Du et al. US Pat. No. 7,260,824

d. Macrae et al. US PG Pub. No. 2003/0128300

e. Thompson US PG Pub. No. 2003/0018973

f. Matz et al. US Pat. No. 7,020,652

g. Hite et al. US Pat. No. 5,774,170

h. Spehr US PG Pub. No. 2003/0014747

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JONATHAN LEWIS whose telephone number is

(571)270-3233. The examiner can normally be reached on Mon - Fri 7:30 AM - 5:00

PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Brian Pendleton can be reached on (571) 272-7527. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425